

ST 03-0173-GIL 11/06/2003 EXEMPT ORGANIZATIONS

Organizations that qualify as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain tax exemption identification (an "E" number) numbers. See 86 Ill. Adm. Code 130.2007. (This is a GIL.)

November 6, 2003

Dear Xxxxx:

This letter is in response to your letter dated May 19, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.1120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

My numerous inquiries concerning the matter for which I'm about to describe has lead me to your department. INDIVIDUAL, instructed me to write this letter because I'm looking for a response.

Before entering my current position at AAA, the dealership was audited by IDOR for sales tax. The audit included a transaction for which we had not charged tax for an organization in lieu of a letter of tax exemption issued by the State of Illinois. The problem was that the address of the organization on the letter did not match the address on our billing. He explained to our office that unless all the information matched exactly, including the address, we should not exempt the entity from tax. If we do, in the future, we will be liable for the tax on that sale.

We have followed this 'rule' for many years. And over the years myself and staff members have personally endured the wrath of irate clergy and nuns, some of whom have even cursed us (not our souls) because we have charged tax on a transaction for repair on a vehicle or the purchase of a vehicle which is or would be registered to a different address other than that on the letter. We have also lost business over this interpretation.

At various times I have called the IDOR and received mixed answers. For example, most Catholic churches we have done business with have had their own number. However, a few times a Catholic church has presented the exemption letter from the Catholic Archdiocese. The exemption letter clearly states that 'it may not be used by individual members of the organization.' In which case the 'individual church' being a member of the Archdiocese should not be able to use that letter. And yet every time I've called the IDOR, the person I've spoken to has said that they can use the letter. The term 'individual' has, also, been arguable. When asked for something in writing, I'm told that there is nothing specific, but, it's okay. Yet, my common sense questions why the church didn't get a number of its own like the others. On the other hand, I know the church exists and I'm reasonably certain it is exempt. But, because we are ultimately liable for the tax, the decision by our company has been to charge them tax. Common sense also tells me that BBB Church on STREET in CITY is NOT the same church as BBB on AVENUE in CITY and each should have an individual tax number because they are two different entities. Yet, how do I really know they are not the same organization.

Currently, my dilemma is XYZ. I have explained countless times to various sisters and laymen of their Order our position as dictated by that 'long ago' auditor. And once again it has come up. It has been explained to me that the XYZ is an Order who have taken a vow of poverty. The Order's main office is in STATE. But, the nun's who belong to the order are located all over the United States. They may be teacher's at our local Catholic schools, nurses in hospitals, etc. And because their vehicle is being garaged in Illinois, it is registered in Illinois.

Now, common sense tells me that these nun's shouldn't be charge sales tax. Every IDOR representative I've spoken to says they are tax exempt. But, no one can site the regulation which says that the letter which they possess can be used even though their address' are different. And no one can assure me in writing that we will not be held liable for the tax on any goods or services that the nun's of this Order purchase from us. Part 130.2005r3 is clear that 'the statutes are strictly construed AGAINST the taxpayer.' And frankly, what is commonly accepted meaning for one is not common for all.

What I'm looking for is a regulation or a letter from your office which will assure me that AAA can accept the XYZ exempt number regardless of address and that in so doing we are not to be held liable for the collection of taxes on transactions made by them provided we retain all other proper documentation.

Organizations that qualify as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain tax exemption identification numbers ("E" numbers). These numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007.

Sales to exempt organizations are subject to tax unless the organization has obtained an active exemption identification number ("E" number) from the Department. See 86 Ill. Adm. Code 130.2080. Companies selling tangible personal property to these organizations must be provided with an "E" number for the sales to be tax exempt, unless another exemption can be documented. It is important to note that only sales of tangible personal property invoiced to the organization itself are

exempt. Sales made to an individual member or client of an exempt entity are generally subject to tax.

As a general proposition, individual members or clients of exempt organizations who purchase items of tangible personal property, such as cars, with their own funds and are then reimbursed by the exempt organization, cannot purchase the items tax-free. As noted above, the sale must be made to the exempt organization, and the "E" number can only be used in making purchases in furtherance of organizational purposes. However, if a business sells a car to an organization holding an "E" number as evidenced by the invoice showing the exempt organization as the purchaser, the sale can be made tax free even if the exempt organization later gives the car to an individual student or client.

In some situations an exempt organization making a purchase will give the retailer a tax exemption letter from the Department showing the exempt organization's tax exempt E number, and the address for the exempt organization is not the same as the address on the letter from the Department. This can happen when the Department issues one exemption identification number to a parent organization with over 50 subsidiaries as provided in 86 Ill. Adm. Code 130.2007(d). In this case, if the retailer is uncomfortable accepting the E number, he can contact the organization listed on the letter and ask them to verify that the exempt organization presenting the letter is part of the group covered by the letter.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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